

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

GORDON DONALD GAZAWAY,

Defendant.

NO. CR21-074-RSL

PRELIMINARY

ORDER OF FORFEITURE

THIS MATTER comes before the Court on the United States' Motion for Entry of a Preliminary Order of Forfeiture ("Motion") seeking to forfeit, to the United States, Defendant Gordon Donald Gazaway's interest in the following property:

a. The following electronic devices, seized from the Defendant on or about January 27 at 3901 S. Angeline St., Apartment D, Seattle, Washington:

(1) one black Samsung tablet, serial number R9WN81KRXFJ;

(2) one Toshiba USB external hard drive, serial number 42LBS2TTSN69; and

b. Any and all images of child pornography, in whatever format and however stored.

1 The Court, having reviewed the United States' Motion, as well as the other papers
 2 and pleadings filed in this matter, hereby FINDS entry of a Preliminary Order of
 3 Forfeiture is appropriate because:

- 4 • The above-identified property is forfeitable pursuant to 18 U.S.C. §
 5 2253(a), as it consists of prohibited images and/or property the Defendant
 6 used to commit or to facilitate his commission of Possession of Child
 7 Pornography, in violation of 18 U.S.C. § 2252(a)(4)(B) and (b)(2); and,
- 8 • Pursuant to the Plea Agreement he entered on March 22, 2022, the
 9 Defendant agreed to forfeit his interest in this property pursuant to
 10 18 U.S.C. § 2253(a). Dkt. No. 20, ¶ 13.

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 12 NOW, THEREFORE, THE COURT ORDERS:

13 1. Pursuant to 18 U.S.C. § 2253(a) and his Plea Agreement, the Defendant's
 14 interest in the above-identified property is fully and finally forfeited, in its entirety, to the
 15 United States;

16 2. Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will
 17 be final as to the Defendant at the time he is sentenced, it will be made part of the
 18 sentence, and it will be included in the judgment;

19 3. The United States Department of Homeland Security Investigations (HSI)
 20 and/or its authorized agents or representatives shall maintain the above-identified
 21 electronics in their custody and control until further order of this Court. HSI shall destroy
 22 any prohibited images unless they have been destroyed already or will be retained for
 23 official, investigative use, as permitted by 21 U.S.C §§ 853(i) and 881(e);

24 4. Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the
 25 United States shall publish notice of this Preliminary Order and its intent to dispose of the
 26 electronics as permitted by governing law. The notice shall be posted on an official
 27 government website – currently www.forfeiture.gov – for at least thirty (30) days. For
 28 any person known to have alleged an interest in the electronics, the United States shall, to

1 the extent possible, provide direct written notice to that person. The notice shall state that
 2 any person, other than the Defendant, who has or claims a legal interest in the electronics
 3 must file a petition with the Court within sixty (60) days of the first day of publication of
 4 the notice (which is thirty (30) days from the last day of publication), or within thirty (30)
 5 days of receipt of direct written notice, whichever is earlier. The notice shall advise all
 6 interested persons that the petition:

- 7 a. shall be for a hearing to adjudicate the validity of the petitioner's alleged
 8 interest in the electronics;
- 9 b. shall be signed by the petitioner under penalty of perjury; and,
- 10 c. shall set forth the nature and extent of the petitioner's right, title, or interest
 11 in the electronics, as well as any facts supporting the petitioner's claim and
 the specific relief sought.

12 5. If no third-party petition is filed within the allowable time period, the
 13 United States shall have clear title to the electronics, and this Preliminary Order shall
 14 become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

15 6. If a third-party petition is filed, upon a showing that discovery is necessary
 16 to resolve factual issues it presents, discovery may be conducted in accordance with the
 17 Federal Rules of Civil Procedure before any hearing on the petition is held. Following
 18 adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture,
 19 pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that
 20 adjudication; and,

21 7. The Court will retain jurisdiction for the purpose of enforcing this
 22 Preliminary Order, adjudicating any third-party petitions, entering a Final Order of

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1 Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to
2 Fed. R. Crim. P. 32.2(e).

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4 IT IS SO ORDERED.

5 DATED this 6th day of June, 2022.

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9 THE HON. ROBERT S. LASNIK
10 UNITED STATES DISTRICT JUDGE
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15 Presented by:

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